

House Bill 340

By: Representatives Gravley of the 67th, Burns of the 159th, Welch of the 110th, Gaines of the 117th, Wiedower of the 119th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 6 of Title 17 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding bonds and recognizances, so as to revise provisions
3 regarding when and under what circumstances persons accused of crimes may be released
4 on their own recognizance; to provide for the types of security for bail; to revise a definition;
5 to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to
9 general provisions regarding bonds and recognizances, is amended by revising paragraph (1)
10 of subsection (f) and subsection (i) of Code Section 17-6-1, relating to where offenses
11 bailable, procedure, schedule of bails, and appeal bonds, as follows:

12 "(f)(1) Except as provided in subsection (a) of this Code section or as otherwise provided
13 in this subsection, the judge of any court of inquiry may by written order establish a
14 schedule of bails, inclusive of offenses that are violations of local ordinances, and unless
15 otherwise ordered by the judge of any court, an accused shall be released from custody
16 upon posting bail as fixed in the schedule; provided, however, that such schedule or any
17 local ordinance shall not mandate releasing an accused on his or her own recognizance
18 before being brought before a judge of any court of inquiry. Nothing in this Code section
19 shall prohibit own recognizance release for any person charged under Code
20 Section 3-3-23.1 or charged under any local ordinance not providing for a sentence of
21 confinement in a penal institution or state, county, or local jail."

22 "(i) As used in this Code section, the term 'bail' shall ~~include releasing of a person on such~~
23 ~~person's own recognizance, except as limited by Code Section 17-6-12~~ only include
24 releasing of a person by the use of cash as provided in Code Sections 17-6-4 and 17-6-5,
25 professional bondsmen as provided in Code Section 17-6-50, or property as approved by
26 the sheriff in the county where the offense was committed."

27 **SECTION 2.**

28 Said article is further amended by revising subsection (b) of Code Section 17-6-2, relating
 29 to acceptance of bail in misdemeanor cases and posting driver's license as collateral for bail,
 30 as follows:

31 "(b) In all other misdemeanor cases, sheriffs and constables shall accept bail in such
 32 ~~reasonable~~ sufficient amount as may be just and fair for any person or persons charged with
 33 a misdemeanor, provided that the sureties tendered and offered on the bond ~~are~~ shall only
 34 include releasing of a person by the use of cash as provided in Code Sections 17-6-4
 35 and 17-6-5, professional bondsmen as provided in Code Section 17-6-50, or property as
 36 approved by the sheriff in the county where the offense was committed."

37 **SECTION 3.**

38 Said article is further amended by revising subsections (b), (c), and (d) of Code
 39 Section 17-6-12, relating to discretion of court to release person charged with crime on
 40 person's own recognizance only and effect of failure of person charged to appear for trial, as
 41 follows:

42 "(b) A person charged with a felony or a bail restricted offense shall not be released ~~on bail~~
 43 on his or her own recognizance for any reason, including for the ~~purpose~~ purposes of
 44 entering a pretrial release program, a pretrial release and diversion program as provided for
 45 in Article 4 of Chapter 3 of Title 42, or a pretrial intervention and diversion program as
 46 provided for in Article 4 of Chapter 18 of Title 15, or pursuant to Uniform Superior Court
 47 Rule 27, unless an elected magistrate, elected state or superior court judge, or other judge
 48 sitting by designation under the express written authority of such elected judge, enters a
 49 written order ~~to the contrary~~ specifying the reasons why such person should be released
 50 upon his or her own recognizance.

51 (c) Except as provided in subsection (b) of this Code section and in addition to other laws
 52 regarding the release of an accused person, the judge of any court having jurisdiction over
 53 a person charged with committing an offense against the criminal laws of this state,
 54 inclusive of offenses that are violations of local ordinances, shall have authority, in his or
 55 her sound discretion and in appropriate cases, to authorize the release of the person upon
 56 his or her own recognizance only; provided, however, that no such recognizance release
 57 shall occur as the result of a written order or local ordinance establishing a uniform
 58 schedule of such release. Nothing in this Code section shall prohibit own recognizance
 59 release for any person charged under Code Section 3-3-23.1 or charged under any local
 60 ordinance not providing for a sentence of confinement in a penal institution or state,
 61 county, or local jail.

62 (d) Upon the failure of a person released on his or her own recognizance to appear for trial,
63 if the release is not otherwise conditioned by the court, absent a finding of sufficient excuse
64 to appear, the court shall summarily issue an order for his or her arrest which shall be
65 enforced as in cases of forfeited bonds. Any further release of such person shall not be
66 permitted by recognizance unless an elected magistrate, elected state or superior court
67 judge, or other judge sitting by designation under the express written authority of such
68 elected judge enters a written order specifying the reasons why such person should be
69 released upon his or her own recognizance."

70

SECTION 4.

71 All laws and parts of laws in conflict with this Act are repealed.